



**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF:)		
)		
OLLIE GREEN,)		
)		
Complainant,)		
)	Charge No.:	1997CF0888
and)	EEOC No.:	21B970149
)	ALS No.:	10519
AVON PRODUCTS, INC.,)		
)		
Respondent.)		

RECOMMENDED ORDER AND DECISION

On June 18, 1998, the Illinois Department of Human Rights filed a complaint on behalf of Complainant, Ollie Green. That complaint alleged that Respondent, Avon Products, Inc., discriminated against Complainant on the basis of a physical handicap when it failed to provide her a reasonable accommodation.

This matter now comes on to be heard on Respondent's Motion to Dismiss With Prejudice. Complainant has filed a written response to the motion, and Respondent has filed a written reply to that response. The matter is ready for decision.

FINDINGS OF FACT

The following findings of fact are based upon the case file in this matter.

1. On October 24, 1996, Complainant filed a complaint

against Respondent in the Cook County Commission on Human Rights. That complaint included allegations that Respondent had discriminated against Complainant on the basis of a physical handicap by failing to accommodate her.

2. On Respondent's motion, the instant case was stayed to allow the parties to litigate the matter pending before the Cook County Commission.

3. On April 29, 1999, the Cook County Commission entered its Decision and Order dismissing Complainant's claim with prejudice.

4. The Cook County Commission's Decision and Order was not appealed and the time for such appeal has expired.

CONCLUSIONS OF LAW

1. The Cook County Commission's decision on Complainant's claim was a final decision on the merits of that claim.

2. Complainant's claim in the instant case is barred under the doctrine of *res judicata*.

DISCUSSION

On October 24, 1996, Complainant filed a complaint against Respondent in the Cook County Commission on Human Rights. That complaint included allegations that Respondent had discriminated against Complainant on the basis of a physical handicap by failing to accommodate her.

On Respondent's motion, the instant case was stayed to

allow the parties to litigate the matter then pending before the Cook County Commission. On April 29, 1999, the Cook County Commission entered its Decision and Order dismissing Complainant's claim with prejudice. That Decision and Order was not appealed and the time for such appeal has expired. Respondent now moves for dismissal of the instant case, arguing that this action is barred by the doctrine of *res judicata*.

The doctrine of *res judicata* applies if three elements are met: 1) the parties in the present action must be the same parties, or in privity with the same parties, as the ones in the prior action, 2) the cause of action must be the same as in the prior action, and 3) a decision on the merits must have been entered in the prior action. ***Housing Auth. For LaSalle County v. Young Men's Christian Assoc. of Ottawa***, 101 Ill. 2d 246, 461 N.E.2d 959 (1984). Those elements all have been met in the instant case.

There is no real dispute on any of the stated *res judicata* elements. The parties are the same. Moreover, because the two cases arose from the same set of facts, they comprise the same cause of action. See ***Smith v. City of Chicago***, 820 F.2d 916 (7th Cir. 1987). Finally, it is clear that the Cook County Commission's order is final and constitutes a decision on the merits of the claim. Thus, this is clearly a *res judicata* situation.

In response, Complainant offers two arguments. First, she

suggests that Respondent's evidence in the Cook County proceeding was inadequate. Even if that were true, Complainant cannot attack the findings of the Cook County Commission in this forum. If the Cook County Commission erred, Complainant should have appealed that decision. She cannot attack that decision here.

Finally, Complainant argues that granting Respondent's motion would violate her "right to seek a second opinion." The short response to that argument is that she has no such right. Once a final judgment is entered, the parties cannot relitigate the same cause of action in a subsequent case. ***Blissitt v. City of Chicago***, ___ Ill. HRC Rep. ___, (1987CF1454, January 13, 1995). Thus, Respondent's motion should be granted.

RECOMMENDATION

Based upon the foregoing, Complainant's claim against Respondent is barred pursuant to the doctrine of *res judicata*. Accordingly, it is recommended that the complaint in this matter be dismissed in its entirety, with prejudice.

HUMAN RIGHTS COMMISSION

BY: _____
MICHAEL J. EVANS
ADMINISTRATIVE LAW JUDGE
ADMINISTRATIVE LAW SECTION

ENTERED: February 27, 2001